



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

February 21, 2014

TO: The Honorable Karl Rhoads, Chair
House Committee on Judiciary

FROM: Barbara Yamashita, Deputy Director

SUBJECT: **H.B. 2298, H.D.1 - RELATING TO NOTICE TO CHILDREN
PURSUANT TO THE CHILD PROTECTIVE ACT**

Hearing: Friday, February 21, 2014, 1:00 p.m.
Conference Room 325, State Capitol

PURPOSE: The purpose of H.B. 2298, H.D.1, is to amend HRS 587A-13 to provide a child friendly process of hearing notification to a minor by the petitioner rather than service of a summons by a law enforcement officer.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this Administration bill. The DHS also fully supports the amendments made in the H.D. 1 of this bill.

Currently section 587A-13, HRS, Child Protective Act, requires that children be served with the petition and summons by a law enforcement officer, like any other party, in a child welfare proceeding. This means that a sheriff would serve the child victim at school or elsewhere without anyone there to explain what the petition means.

The recommended change will require the petitioner, the DHS, Child Welfare Services Branch, to notify the child of the chapter 587A petition filed rather than having

the petition served by a law enforcement officer. This method of service is more therapeutic and supportive. Often, children may be too young to understand why they are being given 'papers' by a law enforcement official or are embarrassed by the presence of the law enforcement official at their school. Under the proposed amendment, the petitioner, the DHS, will be required to notify the child of the petition and to include the date and time of the initial hearing and the right of the child to participate in the hearing should the child choose to do so.

The amendment proposed in this bill will correct an oversight when the Child Protective Act was amended by Act 135, Session Laws of Hawaii 2010.

The Department believes that being served a summons by a law enforcement officer is not the best interests of the child nor therapeutic or supportive.

Thank you for the opportunity to testify.



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-SEVENTH LEGISLATURE, 2014

ON THE FOLLOWING MEASURE:

H.B. NO. 2298, H.D. 1, RELATING TO NOTICE TO CHILDREN PURSUANT TO THE CHILD PROTECTIVE ACT.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Friday, February 21, 2014

TIME: 1:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Jay K. Goss, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

The purpose of this bill is to allow the petitioner to provide notice to a child that a petition has been filed rather than to have the child served with a summons by a law enforcement officer.

Currently under chapter 587A, Hawaii Revised Statutes (HRS), children are required to be served with a petition and summons by a law enforcement officer like any other party. This is not the best nor is it the most therapeutic way to serve a child. Under the current law a child victim could be served at school or anywhere else without anyone there to explain what the petition means. The change recommended in this bill will allow the petitioner to give notice to a child once a chapter 587A, HRS, petition has been filed. This service by the petitioner can be done in a more therapeutic and supportive way with children who may be too young to understand.

The Department recommends that this bill be passed.

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LATE TESTIMONY

House Judiciary Committee
State of Hawaii

Re: HB2298 RELATING TO NOTICE TO CHILDREN PURSUANT TO THE CHILD
PROTECTIVE ACT

Dear Committee Members:

I hereby submit this written testimony in favor of HB2298.

As a practitioner in Family Court representing the best interests of child victims in abuse and neglect cases, I am familiar with some of the legal and practical issues relating to notice and service upon such children in such cases. I am excited that the proposed change is finally coming about, as it will help clarify the process in court hearings tremendously.

There are two basic considerations on the table. First, the practical issue of serving legal documents on a minor child—that is, how does a process server go about, for example, serving a child who is so young that they lack understanding of the procedure (e.g., an infant, or even a 2-3 year old)? Second, the best-interests issue of providing documents to children which reveal graphic details of the abuse/neglect allegations—should these merely be handed to every child automatically at the beginning of every case, or should they be provided to the child at such appropriate time and place, dependent upon the age, maturity and coping strengths of each particular child? The proposed amendment would provide the flexibility of allowing court cases to proceed on a timely basis while at the same time providing the flexibility to determine under which specific circumstances the child will be provided with copies of appropriate documents in the case.

For those reasons, I fully support passage of this bill. Thank you for your time and consideration.

MALCOLM E. HONG, ESQ.